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TO: Examiner Dennis W. Ruhl

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COMPANY:
USPTO Group Art Unit 3629

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VI/02-022

RE: Restriction Response

YOUR REFERENCE NUMBER:
Serial Number 10/729,434

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Group Art Unit: 3629
KALAFUT et al.)	Examiner: Ruhl, Dennis W.
Serial No. 10/729,434)	Confirm. No. 8371
Filed: 6 December 2003)	Docket No.: VI/02-022
)	
Title: DEVICES, SYSTEMS AND)	
METHODS FOR IMPROVING)	
VESSEL ACCESS)	Date: 28 March 2005

COMMISSIONER FOR PATENTS
P.O. Box 1450
ALEXANDRIA, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In an Office Action mailed 28 February 2005, the Examiner alleges that the application contains claims directed to two inventions. Specifically, on page 2 of the Office Action, the Examiner stated that:

1. Restriction to one of the following inventions is required under 35. U.S.C. 121:
 - I. Claims 1-67, drawn to a surgical apparatus, classified in class 600 subclass 407.
 - II. Claims 68-72 drawn to a method of accessing a vasculature, classified in class 128, subclass 898.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP §806.05(h)). In the instant case the product can be used in a materially different method than recited in claim 68, such as for the setting of a broken bone of a patient or the cleaning of a wound.

Applicants herein respond to the requirement for restriction.

Response To Restriction Requirement
U.S. Application Serial No. 10/724,434
Attorney Docket No. VI/02-022
Page 2 of 18

I. Formal Response to the Restriction Requirement

Formally responding to the restriction requirement, Applicants choose to restrict the application to the Group I claims with traverse for the reasons specified in the Remarks section below. In other words, Applicants elect to prosecute claims 1-67, with claims 1 and 33 being the independent claims in the group. Claims 68-72 are thus hereby withdrawn provisionally, with the understanding that they will be reinstated should it be determined that the relevant regulations require rescission of the restriction requirement.

The claims are reprinted below for the Examiner's convenience.
(The claims are set forth below in the manner required by 37 C.F.R. §1.121, as amended July 30, 2003.)